



SEEGERWEISS_{LLP}

77 Water Street, New York, NY 10005 P 212.584.0700 F 212.584.0799 www.seegerweiss.com

August 1, 2017

By ECF

Honorable Anita B. Brody
United States District Judge
Eastern District of Pennsylvania
James A. Byrnes United States Courthouse
601 Market Street
Philadelphia, PA 19106

Re: ***In re National Football League Players' Concussion Injury Litigation,***
No. 2:12-md-02323-AB

Dear Judge Brody:

As Co-Lead Class Counsel, I write to apprise the Court of a development pertinent to the Court's recent Order scheduling a September 19, 2017 hearing to investigate possible abuse of class members by lenders and litigation funders, third-party claims service providers, law firms and others (ECF No. 8037).

Besides serving a number of such entities with discovery requests and reaching out to schedule depositions, on behalf of the class, Co-Lead Class Counsel has filed a motion for leave to file an amicus curiae brief in support of the governmental plaintiffs who are opposing the motion to dismiss filed by defendant RD Legal Funding and its co-defendant affiliates (collectively, "RD Legal") in an action pending in the Southern District of New York before the Honorable Loretta A. Preska. Notably, RD Legal is one of the entities upon whom we have served discovery requests in accordance with this Court's July 19 Order.

Specifically, the Consumer Financial Protection Bureau ("CFPB") and the New York State Attorney General ("NYAG") jointly brought that action – charging RD Legal with violations of the federal Consumer Financial Protection Act, federal and state laws against deceptive practices, and state usury laws – to enjoin RD Legal's predatory practices involving advances of funds at usurious rates to severely-injured individuals who are entitled to receive compensation under a settlement fund or settlement agreement.

Besides making such advances to individuals entitled to benefits under the James Zadroga 9/11 Health and Compensation Act of 2010 (commonly known as the Zadroga Fund), RD Legal made them to at least seven members of the *NFL Players' Concussion*

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Injury Litigation settlement class. In an attempt to end run its being subject to various federal and state lending laws, RD Legal packaged the loans as purchases of the borrowers' benefit rights. See Complaint (ECF No. 1) ¶¶ 6, 19, 34-35, 37-42, *Consumer Fin. Protection Bureau v. RD Legal Funding, LLC*, No. 1:17-cv-00890 (LAP) (S.D.N.Y. filed Feb. 7, 2017). RD Legal has moved to dismiss the action pursuant to Rule 12(b)(6), arguing, among other things, that the CFPB's structure is unconstitutional. See ECF Nos. 39-40, No. 1:17-cv-00890 (LAP) (S.D.N.Y. filed June 29, 7, 2017). Its motion to dismiss has been fully briefed but, as of this date, the district court has not scheduled oral argument on the motion.

Co-Lead Class Counsel recently became aware of the motion to dismiss in CFPB's and NYAG's suit against RD Legal, certain arguments contained in the briefing and exhibits submitted in conjunction therewith. In accordance with the presiding district judge's individual rules, on July 25, 2017, Co-Lead Class Counsel filed a request for a pre-motion conference antecedent to the filing of a proposed amicus curiae brief in support of the CFPB and NYAG, focusing on the discrete issue of whether the *NFL Players' Concussion Injury Litigation Settlement Agreement* permits assignments of monetary awards. In the proposed amicus brief, we explain why it does not, and alternatively we propose that Judge Preska refer that discrete issue to this Court for resolution given that it is a question that could well arise with respect to other lenders to class members.

Our letter application (including the proposed amicus brief), RD Legal's opposition, and our reply letter (filed on July 31) are attached hereto for the Court's benefit. We will continue to apprise the Court of significant developments in that action.

Respectfully,

/s/ Christopher A. Seeger
Christopher A. Seeger
Co-Lead Class Counsel

Attachments (4)

cc: All counsel of record (via ECF)